



## City Council Agenda Item

**City Council Meeting Date:** July 18, 2017

**TO:** Patrick Wiemiller, City Manager

**FROM:** Lucille T. Breese, AICP, Planning Manager  
l\_breese@ci.lompoc.ca.us

**SUBJECT:** City Council Consideration of and Action to Authorize a Formal Notice of Termination for the Memorandum of Understanding with the Lompoc Valley Parks, Recreation, and Pool Foundation (LVPRPF) for the proposed Motorsports Project at the Lompoc Airport and Return of Unutilized Funds Deposited by LVPRPF with the City for that Proposed Project

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### **Recommendation:**

Staff recommends the City Council:

- 1) Consider the material presented in the staff report;
- 2) Direct staff to prepare a Notice of Termination, per Paragraph 8 of the Memorandum of Understanding with the LVPRPF; and
- 3) Direct staff to refund the balance of funds deposited by LVPRFP which were not utilized in processing the proposed Motorsports Project (Proposed Project); or
- 4) Provide alternate direction.

### **Background/Discussion:**

A brief history of the Proposed Project is shown below:

June 5, 2012: The City Council directed staff to work with LVPRPF on the Proposed Project on approximately 38 acres owned by the City of Lompoc (City) at the northern portion of the Lompoc Airport;

July 1, 2013: State of California, Department of Parks and Recreation Off-Highway Motor Vehicle Division awarded an Off Highway Vehicle (OHV) Grant to the City for the Proposed Project. Funding was available for 36 months. The OHV Grant was divided into two

phases: (1) completion of the environmental review process through the California Environmental Quality Act process (CEQA), and (2) construction of the Motorsports Park;

March 4, 2014: The City and LVPRF entered into a Memorandum of Understanding (MOU) outlining the responsibilities of each party in moving the Proposed Project forward;

October 21, 2014: LVPRPF submitted the Proposed Project to the Planning Division for processing;

July 30, 2015: The Proposed Project was deemed complete for processing;

October 23, 2015: The City signed a contract with Meridian Consultants to prepare the Environmental Impact Report (EIR);

December 6, 2016: The City Council adopted Resolution No. 6077(16) certifying the Final EIR for the Proposed Project. Staff did not file a Notice of Determination (NOD) pursuant to CEQA, to help avoid unnecessary litigation regarding the certification and any associated legal costs;

December 31, 2016: The State closed the Grant following completion of Phase 1; and

June 6, 2017: The time period for which someone to file a legal challenge to the Final EIR certification has ended. (Please note, if a project relying on the Final EIR were ever approved in the future, then the adequacy of the Final EIR could still be challenged.)

The Final EIR was certified to ensure payout of the State Grant funds for the environmental work. The Proposed Project was not reviewed nor was action taken to approve or deny the Proposed Project. As proposed, it has been determined the Proposed Project cannot proceed based upon the Federal Aviation Administration (FAA) determination airport related uses take precedence over any other activity on Airport-property. Based on that, the FAA was unwilling to process the required National Environmental Policy Act (NEPA) documents necessary to amend the Airport Layout Plan.

Based upon the terms of the MOU signed March 4, 2014, as noted below, the City may issue a formal 15-day notice to terminate the MOU for certain reasons. The City Attorney believes the change discussed above, as well as the current lack of financing for the Proposed Project provides the City Council with authority to exercise its rights pursuant to the below paragraph in the MOU. Staff is requesting Council direction on how to proceed.

*8. Termination by City. City shall have the right to terminate this MOU in the event LVPRPF (i) proposes any substantial variation from the terms of*

*Exhibit C – Scope of Development, Exhibit D – Schedule of Performance or (ii) fails to meet any of the requirements in the Schedule of Performance, unless the delay is caused by City. City’s right of termination shall be subject to a 15-day formal notice.*

**Fiscal Impact:**

If the Council directs staff to issue the 15-day formal notice of termination, then the balance of funds that were deposited with the City by LVPRPF and were not utilized in processing the Proposed Project, including costs unreimbursed by the OHV Grant will be refunded and no further staff time would be expended upon nor would any additional services be procured for the Proposed Project. That amount of deposited funds, less costs incurred by the City, less costs reimbursed by the OHV Grant is \$7,656.09 for the Proposed Project and would be processed in the next available accounts payable weekly processing run. An additional \$49.07 was paid by LVPRPF to the City representing interest due on late payments made during the term of the Proposed Project processing. The \$49.07 has not been considered in determining the total payments made for processing the Proposed Project.

Following are schedules of the various payments made to the City by LVPRPF for the application, reimbursements paid to the City from the OHV Grant, and the costs incurred by the City to process the application.

Payments (Deposits) made to the City by LVPRPF for the Proposed Project:

Date	Payment
Payment Received	Payment Amount
10/21/2014	\$ 1,000.00
10/21/2014	500.00
2/18/2015	932.14
4/17/2015	680.54
8/21/2015	865.36
8/31/2015	30,000.00
11/18/2015	10,000.00
2/29/2016	1,083.41
3/24/2016	2,164.47
5/18/2016	9,970.00
7/29/2016	68,215.95
9/15/2016	12,662.00
10/5/2016	12,662.00
10/31/2016	12,662.00
12/14/2016	12,662.00
Total payments	<u>\$ 176,059.87</u>

Reimbursements paid to the City from the OHV Grant:

	<u>Date</u> <u>Payment</u> <u>Received</u>	<u>Reimbursement</u> <u>Received</u>
Reimbursement Request #1	10/11/2016	171,819.55
Reimbursement Request #2	12/2/2016	36,780.42
Reimbursement Request #3	1/30/2017	28,425.12
Total reimbursements from OHV Grant		<u>\$ 237,025.09</u>

Costs incurred by the City to process the Proposed Project:

<u>Payment Type/Category</u>	<u>Amount</u>
<b><u>Contracts</u></b>	
Meridian	\$ 282,913.25
Hawkes Real Estate	2,200.00
AECOM Technical Services	61,992.50
Bethel Engineering	3,408.75
Total contracts	<u>350,514.50</u>
Direct charges (mailings, notices, copy charges & phone charges)	3,302.76
Direct staff charges and OHV Grant indirect allowed charges	51,611.61
Total Proposed Project Costs	<u>\$ 405,428.87</u>

Summary of Proposed Project Payments and Costs:

	<b><u>Amount</u></b>
LVPRPF Payments for Proposed Project	\$ 176,059.87
OHV Grant reimbursements	237,025.09
Total payments received by the City	<u>413,084.96</u>
Proposed Project Costs	<u>405,428.87</u>
Amount Due To/(From) LVPRPF	<u>\$ 7,656.09</u>

**Conclusion:**

Termination of the MOU will close the Proposed Project's file at this time. That would not preclude LVPRPF from approaching the City with a reduced-scale project in the future to alleviate FAA concerns regarding possible conflicts with airport-related uses or proposing a motorsports project for some other area of the City or County of Santa Barbara. Staff would anticipate the cost of processing any future project would be funded fully by LVPRPF.

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Motorsports Project  
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Respectfully submitted,

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Lucille T. Breese, AICP, Planning Manager

**APPROVED FOR SUBMITTAL TO THE CITY MANAGER:**

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Teresa Gallavan, Economic Development Director/Assistant City Manager

**APPROVED FOR SUBMITTAL TO THE CITY COUNCIL:**

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Patrick Wiemiller, City Manager